IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9500 OF 2004

Shri Subhash Nelge. .. Petitioner
Vs.
BWG Estate,
Through Mr.Gaggil. .. Respondent
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Mrs.Varsha Palav and Sarang S. Aradhye for the petitioner.
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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 29th NOVEMBER, 2004.

P.C.

1. Taken up on board on request.

2. Heard the learned advocate for the petitioner. Undisputedly, the consent terms filed by the parties in the month of October, 2003 disclose that the construction of the bungalow at Shantishila Society, Pune, had already commenced, and therefore, the petitioner had taken one year's time to vacate the suit premises with the consent of the parties. Accordingly the order for eviction of the petitioner from the suit premises was passed. In terms of the consent decree, the petitioner was required to vacate the suit premises on or before 3rd October, 2004. Thereafter, the application was filed before the competent authority on 5th November, 2004 for

extension of time to vacate the premises. It is to be noted that the period for eviction of the petitioner from the suit premises had already expired more than one month prior to the filing of the application itself. The said application was rejected by the competent authority by its order dated 8th November, 2004 and consequently the warrant of possession was issued against the petitioner. The petitioner carried the matter in revision before the Additional Commissioner, Pune Division, Pune, which came to be rejected by an order dated 11th November, 2004. Inspite of the said fact, the petitioner has not vacated the premises till this date and has filed the present petition.

3. The contention of the petitioner is that various authorities had yet to issue occupancy certificate and other certificates for the purpose of obtaining electricity and other facilities to the premises and it is not within the powers of the petitioner to get the said certificates within the specified time. It is for those authorities to issue the said clearance certificate and other certificates. The petitioner has also produced for my perusal the photographs of the bungalow which is stated to have been constructed. Bare perusal of the photographs

discloses that the petitioner has yet to provide panels to the doors and windows of the bungalow. Apparently in the absence of such panels to the doors and windows, the Municipal Corporation cannot issue occupancy certificate. Even the photographs of the inside structure of the bungalow disclose that the plaster to the walls as well as ceiling are yet to be completed. In the absence of such things also, the Municipal Corporation cannot issue occupancy certificate. One of the photographs discloses that plumbing work is yet to be completed. Apparently, the construction is not yet completed and therefore, the question of granting occupancy certificate to the said bungalow, at this stage, for the Municipal Corporation, does not arise. Considering the fact that the petitioner, by consent, obtained the eviction order in the year 2003, thereafter does not vacate the premises, makes an application seeking extension of time to vacate the premises and enjoys the same till this date, the petitioner does not deserve any leniency in the matter once the undertaking to vacate the premises is given. Merely because the petitioner has not been able to construct his new bungalow, that cannot be a justification for extension of the period to vacate the suit premises. Being so, there is no case made out for interference in the impugned order

and hence, the petition is rejected with no order as to costs. -----